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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/004,595	12/05/2001	Lance E. Anderson	10112014	5140

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EXAMINER

KOHNER, MATTHEW J

ART UNIT	PAPER NUMBER
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3653

DATE MAILED: 11/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/004,595

Applicant(s)

ANDERSON, LANCE E.

Examiner

Matthew J. Kohner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 August 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-9, 11, 12, 28 and 29 is/are pending in the application.
- 4a) Of the above claim(s) 13-27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-9, 11, 12, 28 and 29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment / Arguments

Applicant has cancelled claims 4 and 10. Therefore, the drawing objection and 112 rejection to those claims have been overcome. Further, in light of Applicant's arguments and the drawing correction to Fig. 4, the Examiner withdraws the drawing objection regarding claims 5 and 11.

Applicant has amended the claims to include the limitation, "and wherein one of the forward edges is shaped substantially similar to the configured leading edge of the partition whereby the configured leading edge of the partition and one of the forward edges of the folder device are generally adjacent along a substantial portion of the configured leading edge." Applicant has argued that this limitation defines over the prior art of record, since the combination of Soderstrom and Schwartz would fail to yield such a limitation. Examiner disagrees. Examiner feels that the combination of references still anticipates the amended language. Examiner focuses on the terms

- "one of the forward edges [of the folder device]";
- "shaped substantially similar",
- "configured leading edge of the partition" and
- "generally adjacent".

First, the term adjacent is defined as "not distant" (Merriam-Webster's Collegiate Dictionary 10th Ed.). Therefore, the term generally adjacent would mean generally not distant.

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Examiner submits that one of the forward edges of the folder device and configured leading edge of the partition are generally not distant from each other.

Secondly, “shaped substantially similar”, while not indefinite, is still broad language. With no definition of what is considered substantially similar in the specification or prosecution history, Examiner submits that one of the forward edges of the folder device in Schwartz would be considered “substantially similar” to the configured leading edge of the partition in Soderstrom.

Finally, Applicant has not defined in the claim which edge constitutes the configured leading edge. Therefore, in separate rejections, Examiner has interpreted each:

- the angled edge of the partition; and
 - the very front vertical edge of the partition
- as the configured leading edge.

In regard to claim 29, Applicant has included the language, “[the] configured leading edge of the partition and one of the of the edges of the folder device are aligned and adjacent ...”

The term align is defined as “to bring into line or alignment” (Merriam-Webster’s Collegiate Dictionary 10th Ed.). Further, alignment is defined as “the act of aligning or state of being aligned; *esp.* the proper positioning or state of adjustment of parts (as of a mechanical or electronic device) in relation to each other. (Id.).” Therefore, the term align would mean to bring into the proper positioning of parts. Examiner submits that term aligned does not require that the folder and partition must be along the same line. Instead, the term aligned merely requires that one of the forward edges of the folder device and configured leading edge of the partition must

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be in the proper position. Examiner submits in the Schwartz/Soderstom combination, one of the forward edges of the folder device and configured leading edge of the partition are in proper position.

Further, the term “generally linear” is also broad. Examiner feels that the term “generally linear” allows for some departure from the item be exactly linear. Therefore, Examiner submits that the Schwartz folder discloses side reveal structure which is “generally linear”.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 29 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 29 requires that the configured leading edge of the partition be downwardly tapered. Claim 29 also requires that the side reveal structure be downwardly tapered. However, Claim 28 which is included in claim 29 requires that one of the forward edges is shaped substantially similar to the configured leading edge of the partition. Therefore, the forward edge of the folder must be downwardly tapered. Since the side reveal structure and the forward edge of the folder cannot be the same element (due to antecedent basis issues and redundancy), it is unclear what is the forward edge.

The claims are examined as best understood.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5-9, 11-12 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 98/20462 to Söderström (Söderström), published 5/14/98, in view of US Patent No. 6,453,589 to Schwartz (Schwartz), filed 2/9/99 {i.e. the claims are rejected using the very front vertical edge of the partition (See Soderstrom Fig. 3) as the “configured leading edge” of the partition }.

In regard to claims 1 and 7, Söderström discloses an apparatus comprising:

a mail sorting device having a plurality of partition elements (23) supported upon a frame(2), each of the partition elements having a configured leading edge (front edge of partition that rises vertically from bottom of partition to the point where the partition begins to angle back towards the attached end of the partition), a plurality of compartments into which items are

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placed in a generally upright manner (4), each of said plurality of compartments being at least partially defined between a pair of partition elements, and a bottom (6).

Söderström does not disclose a folder device for receiving items and being generally vertically supported upon the bottom, said folder device having a pair of sides, each side being associated with one of the partition elements, each side having a forward edge, wherein the forward edges of the sides are at different heights relative to the leading edges of the associated partition elements and wherein one of the forward edges is shaped substantially similar to the configured leading edge of the partition whereby the configured leading edge of the partition and one of the forward edges of the folder device are generally adjacent along a substantial portion of the configured leading edge.

However, Schwartz discloses such a folder device (See e.g. Fig. 4).

Schwartz discloses a folder device (See e.g. Fig. 4[b]) for receiving items and being generally vertically supported upon the bottom, said folder device having a pair of sides (STP1 and STP2), each guide being associated with one of the partition elements, each side having a forward edge (See Fig. 4b), wherein the forward edges of the sides are at different heights (See Fig. 4b) relative to the leading edges of the associated partition elements and wherein one of the forward edges is shaped substantially similar to the configured leading edge of the partition whereby the configured leading edge of the partition and one of the forward edges of the folder device are generally adjacent along a substantial portion of the configured leading edge (the longer front edge of the STP1 side of the folder is a straight line which aligns with the straight line configured leading edge of the Soderstrom partition).

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It would be obvious to one of ordinary skill in the art that Schwartz's folder could be placed in the Söderström rack so that the folder's hinge (STH1) is along the bottom of the rack in order for the folder to hold mail. Further, there is motivation to use a file folder such Schwartz's to hold mail. It is well known in the art to use folders for the purpose of sorting mail (See e.g. US Patent 5,000,325 to D'Elia [D'Elia] or US Patent 5,547,226 to Wentworth [Wentworth]).

In regard to claims 2 and 8, Söderström discloses a bottom that is movable relative to the frame (see abstract).

In regard to claims 3 and 9, it is well known in the art that file folders have surfaces which can be labeled with identifying indicia. Schwartz discloses such a surface (T1). Schwartz does not specifically disclose that is what the surface is for, however, it is well known in the art (See e.g. Wentworth, abstract). Further, it would be obvious to one of ordinary skill in the art at the time the invention was made, to use an address indicia on the surface of the folder if the folder was used in a mail sorting function as disclosed above.

In regard to claims 5, 6, 11 and 12, Schwartz discloses a splay structure (STH1) which is generally planar.

In regard to claims 28, Schwartz discloses a reveal structure (See e.g. Fig. 4).

Claims 1-3, 5-9, 11-12 and 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 98/20462 to Söderström (Söderström), published 5/14/98, in view of US Patent No. 6,453,589 to Schwartz (Schwartz), filed 2/9/99 {i.e. the claims are rejected using the angled portion of the partition (See Soderstrom Fig. 3) as the “configured leading edge” of the partition}.

In regard to claims 1 and 7, Söderström discloses an apparatus comprising:

a mail sorting device having a plurality of partition elements (23) supported upon a frame(2), each of the partition elements having a configured leading edge (angled portion of partition that angles from the top of very front vertically edge of the partition to very top horizontal top portion of the partition), a plurality of compartments into which items are placed in a generally upright manner (4), each of said plurality of compartments being at least partially defined between a pair of partition elements, and a bottom (6).

Söderström does not disclose a folder device for receiving items and being generally vertically supported upon the bottom, said folder device having a pair of sides, each side being associated with one of the partition elements, each side having a forward edge, wherein the

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forward edges of the sides are at different heights relative to the leading edges of the associated partition elements and wherein one of the forward edges is shaped substantially similar to the configured leading edge of the partition whereby the configured leading edge of the partition and one of the forward edges of the folder device are generally adjacent along a substantial portion of the configured leading edge.

However, Schwartz discloses such a folder device (See e.g. Fig. 4).

Schwartz discloses a folder device (See e.g. Fig. 4[b]) for receiving items and being generally vertically supported upon the bottom, said folder device having a pair of sides (STP1 and STP2), each guide being associated with one of the partition elements, each side having a forward edge (See Fig. 4b), wherein the forward edges of the sides are at different heights (See Fig. 4b) relative to the leading edges of the associated partition elements and wherein one of the forward edges is shaped substantially similar to the configured leading edge of the partition whereby the configured leading edge of the partition and one of the forward edges of the folder device are generally adjacent along a substantial portion of the configured leading edge (the generally angled portion of the STP2 side of the folder which aligns with the angled portion of the partition [i.e. of the configured front edge of the partition]).

It would be obvious to one of ordinary skill in the art that Schwartz's folder could be placed in the Söderström rack so that the folder's hinge (STH1) is along the bottom of the rack in order for the folder to hold mail. Further, there is motivation to use a file folder such Schwartz's to hold mail. It is well known in the art to use folders for the purpose of sorting mail (See e.g. US Patent 5,000,325 to D'Elia [D'Elia] or US Patent 5,547,226 to Wentworth [Wentworth]).

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In regard to claims 2 and 8, Söderström discloses a bottom that is movable relative to the frame (see abstract).

In regard to claims 3 and 9, it is well known in the art that file folders have surfaces which can be labeled with identifying indicia. Schwartz discloses such a surface (T1). Schwartz does not specifically disclose that is what the surface is for, however, it is well known in the art (See e.g. Wentworth, abstract). Further, it would be obvious to one of ordinary skill in the art at the time the invention was made, to use an address indicia on the surface of the folder if the folder was used in a mail sorting function as disclosed above.

In regard to claims 5, 6, 11 and 12, Schwartz discloses a splay structure (STH1) which is generally planar.

In regard to claim 28, Söderström discloses an apparatus comprising:

a mail sorting device having a plurality of partition elements (23) supported upon a frame(2), each of the partition elements having a configured leading edge (angled edge of partition, see Fig. 3), a plurality of compartments into which items are placed in a generally upright manner (4), each of said plurality of compartments being at least partially defined between a pair of partition elements, and a bottom (6).

Söderström does not disclose a folder device placed within a compartment for receiving items, said folder device having a pair of sides, each side being associated with one of the partition elements, wherein one of the sides has a reveal structure so that the other side extends to a greater extent above the leading edge of its associated partition element, and wherein one of the forward edges is shaped substantially similar to the configured leading edge of the partition

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whereby the configured leading edge of the partition and one of the forward edges of the folder device are generally adjacent along a substantial portion of the configured leading edge.

However, Schwartz discloses such a folder device (See e.g. Fig. 4).

Schwartz discloses a folder device (Fig. 4b) placed within a compartment for receiving items, said folder device having a pair of sides (STP1, STP2), each side being associated with one of the partition elements, wherein one of the sides has a reveal structure (See shape of STP2, where the height of the side is much lower than STP1 in order to reveal documents; Fig. 4b) so that the other side extends to a greater extent above the leading edge of its associated partition element, and wherein one of the forward edges (angled portion of STP2) is shaped substantially similar to the configured leading edge of the partition (angled portion of partition see Fig. 3 of Soderstrom) whereby the configured leading edge of the partition and one of the forward edges of the folder device are generally adjacent along a substantial portion of the configured leading edge (Compare shape of tapered edge of STP2 with angle edge of Söderström's partition).

It would be obvious to one of ordinary skill in the art that Schwartz's folder could be placed in the Söderström rack so that the folder's hinge (STH1) is along the bottom of the rack in order for the folder to hold mail. Further, there is motivation to use a file folder such as Schwartz's to hold mail. It is well known in the art to use folders for the purpose of sorting mail (See e.g. US Patent 5,000,325 to D'Elia [D'Elia] or US Patent 5,547,226 to Wentworth [Wentworth]).

In regard to claim 29, the configured leading edge of the partition (angled portion of partition) is downwardly tapered and generally linear across substantially the entire depth of the partition (See Söderström Fig. 3), and the side reveal structure defines a downwardly tapering side shape (See Schwartz Fig. 4b) similar to the configured leading edge and generally linear

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across substantially the entire depth of the folder device so that configured leading edge of the partition and one of the edges of the folder device are aligned and adjacent across substantially the entire depth of the folder.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Kohner whose telephone number is 571-272-6939. The examiner can normally be reached on Mon-Fri 9-5:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald Walsh can be reached on 571-272-6944. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Matthew J. Kohner
Examiner
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